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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,555	04/12/2007	Alfred Langerak	294-256 PCT/US	8929

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

EXAMINER

BATTULA, PRADEEP CHOUDARY

ART UNIT	PAPER NUMBER
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3722

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04/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,555	Applicant(s) LANGERAK, ALFRED	
	Examiner PRADEEP C. BATTULA	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 3, 6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schudy et al. (Schudy; U.S. 3,993,374).

In regards to Claim 1, Schudy discloses a storage device provided with a front cover 2 and a back cover 4 (Column 3, Lines 56 – 59; Figure 4, Items 2, 4), pivotally connected to each other and/or to a spine 3 such that by pivoting the covers, the storage device can be brought from an opened position to a closed position and vice versa (Column 3, Lines 56 – 59; Figure 4, Item 3), wherein against one of the covers and/or the spine a binder, in particular a ring binder 7, is provided (Column 3, Lines 60 - 63) while adjacent two opposite ends a suspension element 12 is provided which is movable between a first condition in which the suspension elements extend within the storage device in closed condition and a second condition, in which they extend outside the storage device in closed condition such that the storage device can be suspended by the suspension elements (Column 4, Lines 3 – 23; Figures 1 and 2, Item 12).

In regards to Claim 2, as applied to Claim 1, Schudy further discloses wherein the binder is a ring binder which comprises at least two rings 8 for retaining sheets (Column 3, Lines 63 – 67 → Column 4, Lines 1 – 2; Figures 1 & 2, Item 8), which rings

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are movable between an opened and a closed condition with the aid of an operating mechanism (Column 4, Lines 49 – 55).

In regards to Claim 3, as applied to Claim 2, Schudy further discloses wherein the suspension elements form part of the operating mechanism (Column 4, Lines 49 – 55).

In regards to Claim 6, as applied to Claim 1, Schudy further discloses wherein the binder has a longitudinal direction while the suspension elements are slideable in the longitudinal direction (Figures 1 & 2, Items 7, 12).

In regards to Claim 11, as applied to Claim 1, Schudy further discloses wherein the suspension elements are placed and/or formed such that with the suspension elements in the second condition, the storage device can be suspended by the suspension elements and the covers extend next to each other with the center of gravity straight below a connecting line through the suspension elements (Column 3, Lines 60 – 63; Column 4, Lines 49 – 63; binding mechanism is on spine along with the suspension elements and therefore center of gravity will be below suspension elements in straight line).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pitts (U.S. 4,979,626) in view of Schudy.

Pitts discloses a storage device provided with a front cover 8 and a back cover 7, pivotally connected to each other and/or to a spine between fold lines 9 and 11 such that by pivoting the covers, the storage device can be brought from an opened position to a closed position and vice versa (Column 2, Lines 14 – 27; Figure 2, Items 7, 8, 9, 11 – fold lines make it inherent that the device can be brought from open to closed positions), wherein the storage device further comprises a suspension element which is movable between a first condition in which the suspension elements 1, 1' extend within the storage device in closed condition (Column 2, Lines 14 – 18; Figure 2, Item 1') and a second condition, in which they extend outside the storage device in closed condition such that the storage device can be suspended by the suspension elements (Figure 2, Item of top element that is rotated; Figure 3) wherein the spine has a longitudinal direction, the suspension elements being pivotal about a pivot 5 extending approximately at right angles to said longitudinal direction and including an angle with the cover and/or the spine (Column 2, Lines 27 – 36; Figure 2, Item 5, 5'; considered a pivot since the suspension element turns at this point and since it is a fastener protruding through the spine it creates an angle with the cover and/or spine).

Pitts does not disclose wherein against one of the covers and/or the spine a binder, in particular a ring binder, is provided while adjacent two opposite ends a suspension element is provided which is movable between a first condition in which the suspension elements extend within the storage device in closed condition and a second

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condition, in which they extend outside the storage device in closed condition such that the storage device can be suspended by the suspension elements.

Schudy discloses a storage device provided with a front cover 2 and a back cover 4 (Column 3, Lines 56 – 59; Figure 4, Items 2, 4), pivotally connected to each other and/or to a spine 3 such that by pivoting the covers, the storage device can be brought from an opened position to a closed position and vice versa (Column 3, Lines 56 – 59; Figure 4, Item 3), wherein against one of the covers and/or the spine a binder, in particular a ring binder 7, is provided (Column 3, Lines 60 - 63) while adjacent two opposite ends a suspension element 12 is provided which is movable between a first condition in which the suspension elements extend within the storage device in closed condition and a second condition, in which they extend outside the storage device in closed condition such that the storage device can be suspended by the suspension elements (Column 4, Lines 3 – 23; Figures 1 and 2, Item 12). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the storage device of Pitts with a ring binder device connected to the suspension elements of Pitts in order to allow for Pitts to releasably engage sheets in a more organized manner.

3. Claims 4 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Schudy in view of Wu (U.S. 5,895,164).

In regards to Claim 4, Schudy further discloses wherein the suspension elements are pivotable or slideable relative to at least the rings of the ring binder (Column 4, Lines 49 – 68 → Column 5, Lines 1 - 5; Figures 1, 2) where in a first position, the suspension

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elements are in the first condition and the rings are in the closed condition (Column 4, Lines 49 – 58); in a second position, the suspension elements are in the second condition and the rings are in the closed condition (Column 4, Lines 58 – 68 → Column 5, Lines 1 – 5).

Schudy does not disclose a third position the suspension elements are in a third condition preferably between the first and the second condition, with the rings in the opened condition.

Wu teaches of a binding element wherein the actuating mechanism has three positions a first position as seen in Figure 3 where the rings are closed, a second position as shown in Figure 6 wherein the actuation system is slid out to its furthest extreme where the rings are closed and a third position as shown in Figure 5 where the actuator is in between the first and second positions but the rings are in an open position (Column 3, Lines 7 – 28). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a third position as taught by Wu in order to allow for easy actuation of the binder rings of Schudy and still allow for easy carrying and suspension.

In regards to Claim 5, as applied to Claim 4, Schudy modified by Wu further discloses wherein the suspension elements in the third position extend at least partly outside the storage device in closed condition (Figures 1 & 2 – any position other than the first position will be outside the storage device – Schudy; Figure 3, 5 & 6 - show different displacements of slideable actuator – Wu).

4. Claim 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schudy in view of Moy (U.S. D527,051 S).

In regards to Claim 8, as applied to Claim 1, Schudy further discloses the ring binder has a longitudinal direction (running through rings and the length of the spine).

Schudy does not disclose the suspension elements are pivotal about a pivot which extends approximately at right angles to said longitudinal direction, approximately parallel to the cover and/or the spine to which the binder has been attached.

Moy discloses a hanging file folder wherein suspension elements are pivotal about a point which extends approximately at right angles to said longitudinal direction (Figure 11; 90 degree the pivot point crosses the longitudinal direction and is therefore at a 90 degree angle) and it is **approximately** parallel to the spine (as it is inherent the suspension elements pivot about a straight line). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the suspension elements as taught by Moy in order to provide suspension elements that in case of malfunction will not interfere with the binding rings of Schudy.

In regards to Claim 9, as applied to Claim 1, Schudy does not disclose wherein one or each cover and/or the spine comprise an upright edge such that in closed condition, the or each upright edge, the covers and the spine define a substantially closed inner space of the storage device, while passage openings are provided for the suspension elements.

Moy discloses a hanging file folder storage system wherein the covers provide a closed inner space where there are passage openings for suspension elements

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(Figures 1, 2, 11, & 12). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the storage device of Schudy with a closed inner space and passage openings for the suspension elements as taught by Moy in order to provide a further protection for the stored documents in case of total failure of the ring mechanism of Schudy.

In regards to Claim 10, as applied to Claim 9, Schudy modified by Moy further discloses wherein the passage openings are closable (Figures 11, 12; openings closed by exterior surface of retracted suspension element).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./
Examiner, Art Unit 3722
April 8, 2008

/Monica S. Carter/
Supervisory Patent Examiner, Art Unit 3722